

Date: August 1, 2013

To: Authorized Representatives and Food Service Directors of School Food Authorities
Participating in the Child Nutrition Programs

From: Jessica Sharkus, RD, CD
Director, School Nutrition Team

Subject: Updates to Accommodating Children with Special Dietary Needs in the National School Lunch Program, School Breakfast Program and Special Milk Program

Providing special dietary accommodations for students with documented disabilities is a challenge that many Wisconsin schools are managing in a very proficient manner, ensuring that these students receive a safe and nutritious meal that fits within the confines of their specific dietary requirements. Some of the more common accommodations that schools are providing include gluten-free diets for children with Celiac disease, providing documentation to assist in carbohydrate counting for children who are diabetic and providing allergen-free meals to students with severe food allergies.

Providing special dietary accommodations for children with disabilities is required under Section 9(a) of the Richard B. Russell National School Lunch Act, 42 USC 1758(a), Child Nutrition Program (CNP) regulations and in accordance with the Americans with Disabilities Act Amendments Act of 2008 (ADAAA), P.L. 110-325. In 2008, the ADAAA amended the Federal definition of disability by broadening it to cover additional individuals. For more information on the ADAAA, including the broader definition of disability, please refer to USDA Memo SP 36-2013 posted on USDA's website at <http://www.fns.usda.gov/cnd/Governance/policy.htm>.

Because of this broader definition, it is reasonable that foodservice directors may see more children identified by their licensed physician as having a food-related disability than were previously identified. Program operators should note, however, that the process for identifying children with disabilities requiring an accommodation has not changed. Students seeking accommodations for a food-related disability **must still provide a statement signed by a licensed physician that contains the following information:**

- The child's disability.
- An explanation of why the disability restricts the child's diet.
- The major life activity or major bodily function affected by the disability.
- The food or foods to be omitted from the child's diet, and the food or choice of food that must be substituted.

"Licensed physician" is defined in Wisconsin by WI State Statute 448.01(5): "Physician" means an individual possessing the degree of doctor of medicine or doctor of osteopathy or an equivalent degree as determined by the medical examining board, and holding a license granted by the medical examining board. Unless the documentation to support the required dietary accommodation has been signed by a licensed physician, the school is not required to accommodate the request.

If a request for special dietary accommodations is not based on a disability, and is signed by a recognized medical authority, it is at the school's discretion as to whether or not they accommodate the request. The

only time a school is required to provide special dietary accommodations is if a completed form that is signed by a licensed physician identifying the disability is submitted to the school.

All documentation supporting special dietary requests must be kept on file, along with other Child Nutrition Program records. There is no requirement for this statement to be updated annually (or at any point), and remains in effect until the household provides new documentation.

In our School Nutrition News, Spring 2013 (http://fns.dpi.wi.gov/files/fns/pdf/snt_spr13.pdf), page 3, we provided some questions and answers regarding special dietary accommodations. These included questions on documentation needed and when a school is required to make accommodations. You may find these helpful in clarifying various situations in your school.

We encourage you to share this memo and available resources with your school's health provider, as many times, they are contacted first by parents and guardians of students with special dietary needs. Working together with all stakeholders helps to ensure a more cohesive plan and effective implementation.

Additional resources include:

- *USDA Accommodating Children with Special Dietary Needs in the School Nutrition Programs, Guidance for School Food Service Staff* (<http://www.fns.usda.gov/cnd/guidance>) - This guidance document was created in 1995 and minor revisions were made in 2001. Since that time, significant changes have occurred in relevant laws that affect this document. The guidance is currently under revision to incorporate current versions of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and the Individuals with Disabilities Education Act (IDEA). This will allow schools to understand fully the current requirements for accommodating students with disabilities in school nutrition programs. USDA will post the revision as soon as it is available.
- Our School Nutrition Team's prototype physician form for use in documenting a student's special dietary needs - http://fns.dpi.wi.gov/files/fns/doc/spec_diet_eng.doc.
- Prototype physician's form in Spanish - http://fns.dpi.wi.gov/files/fns/doc/spec_diet_spa.doc.
- Additional information and resources on accommodating special dietary requests, including webcasts on handling food allergies and the school district's role and responsibilities in carbohydrate counting - http://fns.dpi.wi.gov/fns_market1.
- Food Allergy Association of WI - <http://www.foodallergywis.org/>.
- Food Allergy Research and Education (FARE) - <http://www.foodallergy.org/>, which includes a webpage dedicated to managing food allergies in schools (<http://www.foodallergy.org/managing-food-allergies/at-school>).

Please feel free to contact the following for further questions or concerns regarding special dietary accommodations:

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